

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.194 OF 2007
IN
CRIMINAL APPLICATION NO.370 OF 2006
IN
CRIMINAL WRIT PETITION NOS.84 & 85 OF 2005

M/s.Vatsa Corporation Ltd.
and Anr. ..Applicants.

Versus

State of Maharashtra
and 3 Ors. ..Respondents.

..
Mr.Prakash Naik, Adv. for the Applicants.
Mr.Ramesh Ramurthy, Adv. for Respondent No.4.
Mrs.A.S.Pai, APP, for the State.
..

**CORAM : R.M.S.KHANDEPARKAR AND
SMT.V.K.TAHILRAMANI, JJ.**

DATED : 18TH JULY, 2007.

P.C.:-

1. Heard.

2. By this Application, the applicants are seeking modification in the order dated 26th April, 2007 passed in Criminal Application No.370 of 2006. The modification which is sought is in the nature of incorporation of certain submission on behalf of the applicants to be incorporated in the order dated 26th April, 2007 immediately after the sentence in the said order whereby the statement of Mr.Naik on behalf

of the applicants has been recorded. The statement of Mr.Naik which was recorded in the order dated 26th April, 2007 reads thus :

"Today, Mr.Naik states that the undertaking is not filed because the petitioners have no objection if the properties mentioned in our order dated 9.4.2007 are sealed."

3. The submission which is sought to be incorporated after the above stated statement in the order dated 26th April, 2007 reads thus :-

"It is submitted that the submissions made as aforesaid by the applicants, the respondents will go on making frivolous complaints and the applicants will get any small portion of premises for using office by giving an undertaking. It is better if the property remains sealed as no other alternate remains."

4. Infact by seeking to incorporate the above quoted submission in the order dated 26th April, 2007, the applicants are apparently seeking to

introduce a submission totally different from the one which was made before the Court at the time of passing the said order. It is apparently afterthought and an improvement over the case which was placed before the Court on 26th April, 2007. The submission of Mr. Naik which is recorded in the order dated 26th April, 2007 nowhere discloses any intention on the part of the applicants to submit to the order of sealing of the property on the ground that on account of submission of an undertaking, small portion of the premises would be available and that therefore the applicants had left with no alternate than to submit for sealing of the property in question. Being so, the question of incorporating such submission in the order dated 26th April, 2007 does not arise at all. The incorporation would not merely amount to addition of the submission on behalf of the applicants but would be inconsistent with the submission which was made on the day of passing order dated 26th April, 2007, and it would virtually amount to introducing a new case on the part of the applicants for sealing of the property. Hence, Application is rejected.

[R.M.S. KHANDEPARKAR, J.]

[SMT.V.K.TAHILRAMANI, J.]